

Case No. 2:11-cv-00283-JCM-
GWF

**STIPULATED FINAL
JUDGMENT AND ORDER
FOR PERMANENT
INJUNCTION AND
MONETARY RELIEF**

Relief Defendants.

Plaintiff, the Federal Trade Commission (the "FTC" or the "commission") filed a complaint for permanent injunction and other equitable relief, including redress to consumers and disgorgement of ill-gotten gains (the "complaint"), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (the "FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud Abuse Prevention Act (the "Telemarketing Act"), 15 U.S.C. §§ 6101-6108. The FTC and defendant John H. Harrison ("Mr. Harrison"), by and through their counsel, hereby stipulate to the entry of, and request the court to enter, this stipulated final judgment and order for permanent injunction and monetary relief ("order"), to resolve all matters of dispute between them in this action.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

- 1
2 **1.** This is an action by the commission instituted under Sections 13(b) and 19 of the
3 FTC Act, 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing Act, 15 U.S.C. §§
4 6101-6108. The commission has authority to seek the relief contained herein;
- 5 **2.** The complaint states a claim upon which relief may be granted under Section 5(a) of
6 the FTC Act, 15 U.S.C. § 45(a), and the FTC's trade regulation rule entitled the
7 Telemarketing Sales Rule (the "TSR"), 16 C.F.R. Part 310;
- 8 **3.** This court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and
9 1345, 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c), and 6105(b);
- 10 **4.** Venue is proper in this district under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. §
11 53(b);
- 12 **5.** The activities of Mr. Harrison, as alleged in the complaint are in or affecting
13 commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
- 14 **6.** Mr. Harrison has entered into this order freely and without coercion, and he
15 acknowledges that he has read the provisions of this order, understands them, and is
16 prepared to abide by them;
- 17 **7.** The FTC and Mr. Harrison, by and through their counsel, have agreed that the entry
18 of this order resolves all matters in dispute between them arising from the complaint
19 up to the date of entry of this order;
- 20 **8.** This order is for settlement purposes only and does not constitute and shall not be
21 interpreted to constitute an admission by Mr. Harrison or a finding that the law has
22 been violated as alleged in the complaint, or that the facts alleged in the complaint,
23 other than the jurisdictional facts, are true;
- 24 **9.** Mr. Harrison waives all rights to seek appellate review or otherwise challenge or
25 contest the validity of this order. Mr. Harrison further waives and releases any claim

1 he may have against the FTC, its employees, representatives, or agents concerning the
2 prosecution of this action to the date of this order;

3 **10.** Mr. Harrison agrees that this order does not entitle him to seek or obtain attorneys'
4 fees as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412,
5 concerning the prosecution of this action to the date of this order. Each settling party
6 shall bear its own costs and attorneys' fees; and

7 **11.** Entry of this order is in the public interest.

8 **DEFINITIONS**

9 For the purpose of this order, the following definitions shall apply:

- 10 **1.** "And" and "or" shall be understood to have both conjunctive and disjunctive
11 meanings.
- 12 **2.** "Asset" means any legal or equitable interest in, right to, or claim to, any real,
13 personal, or intellectual property including, but not limited to, chattel, goods,
14 instruments, equipment, fixtures, general intangibles, effects, leaseholds, contracts,
15 mail or other deliveries, shares or stock, securities, inventory, checks, notes, accounts,
16 credits, receivables (as those terms are defined in the Uniform Commercial Code),
17 cash, trusts, including but not limited to asset protection trusts, and reserve funds or
18 other accounts associated with any payments processed on behalf of any defendant,
19 including, but not limited to, such reserve funds held by a payment processor, credit
20 card processor, or bank.
- 21 **3.** "Assisting others" includes, but is not limited to, providing any of the following
22 goods or services to another entity: (1) performing customer service functions,
23 including, but not limited to, charging consumers for products or services, or
24 receiving or responding to consumer complaints; (2) drafting or providing, or
25 arranging for the drafting or provision of, any promotional material; (3) providing

names of, or assisting in the generation of, potential customers; (4) performing promotional or marketing services of any kind, or recruiting affiliates; or (5) processing credit and debit card payments.

4. **"Business coaching program"** means any program, plan, product, or service, including, but not limited to, those related to work-at-home-opportunities, that is represented, expressly or by implication, to train or teach a participant or purchaser how to establish a business or earn money or other consideration through a business. "Business coaching" shall not include providing services other than training or teaching, including, but not limited to, website design and search engine optimization.
5. **"Commission"** or **"FTC"** means the Federal Trade Commission.
6. **"Corporate defendants"** mean Ivy Capital, Inc., Fortune Learning System, LLC, Vianet, Inc., 3 Day MBA, LLC, Global Finance Group, LLC, Virtual Profit, LLC, ICI Development, LLC, Ivy Capital, LLC, Logic Solutions, LLC, Oxford Debt Holdings, LLC, Revsynergy, LLC, and Sell It Visions, LLC; and their successors, assigns, affiliates or subsidiaries
7. **"Defendants"** mean the individual defendants and the corporate defendants, individually, collectively, or in any combination. The relief defendants are expressly excluded from this definition.
8. **"Document"** is synonymous in meaning and equal in scope to the usage of the term in the Federal Rules of Civil Procedure 34(a), and includes writing, drawings, graphs, charts, Internet sites, Web pages, Web sites, electronic correspondence, including e-mail and instant messages, photographs, audio and video recordings, contracts, accounting data, advertisements (including, but not limited to, advertisements placed on the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup postings, World Wide Web pages, books, written or printed records, handwritten

1 notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business
2 canceled checks and check registers, bank statements, appointment books, computer
3 records, and other data compilations from which information can be obtained and
4 translated, if necessary, through detection devices into reasonably usable form. A
5 draft or non-identical copy is a separate document within the meaning of the term.

6 **9. "Individual defendants"** mean Kyle G. Kirschbaum, John H. Harrison, and Steve E.
7 Lyman.

8 **10. "Material"** means likely to affect a person's choice of, or conduct regarding, goods
9 or services.

10 **11. "Non-disparagement agreement"** means any contract or agreement that purports to
11 prohibit purchasers from providing information, making statements, or otherwise
12 communicating in any way about their experiences with any business coaching
13 program or related goods and services, including, but not limited to, providing
14 information to state, federal or non-governmental entities, filing complaints with any
15 consumer protection entity, and engaging in discussions with other consumers
16 through online forums or any other means.

17 **12. "Person"** means a natural person, organization, or other legal entity, including a
18 corporation, partnership, proprietorship, association, cooperative, government or
19 governmental subdivision or agency, or any other group or combination acting as an
20 entity.

21 **13. "Relief defendants"** mean Cherrytree Holdings, LLC, S&T Time, LLC, Virtucon
22 LLC, Kierston Kirschbaum, Melyna Harrison, and Tracy Lyman.

23 **14. "Representatives"** mean defendants' officers, agents, servants, employees, and
24 attorneys, and any other person or entity in active concert or participation with them
25 who receives actual notice of this order by personal service or otherwise.

1 **15. "Telemarketing"** means any plan, program or campaign (whether or not covered by
2 the TSR, 16 C.F.R. Part 310) that is conducted to induce the purchase of goods or
3 services by means of the use of one or more telephones.

4 **ORDER**

5 **I.**

6 **BAN ON MARKETING OR SALE OF
BUSINESS COACHING PROGRAMS**

7 **IT IS THEREFORE ORDERED** that defendants and their representatives, whether
8 acting directly or through any entity, corporation, subsidiary, division, director, manager,
9 member, affiliate, independent contractor, accountant, financial advisor, or other device, are
10 **hereby permanently restrained and enjoined from:**

- 11 A. Advertising, marketing, promoting, offering for sale, or selling any business coaching
12 program; and
13 B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or
14 selling any business coaching program.

15 **II.**

16 **PROHIBITED MISREPRESENTATIONS AND OTHER CONDUCT PROHIBITIONS**

17 **IT IS FURTHER ORDERED** that defendants and their representatives, whether acting
18 directly or through any entity, corporation, subsidiary, division, director, manager, member,
19 affiliate, independent contractor, accountant, financial advisor, or other device, are **hereby**
20 **permanently restrained and enjoined from:**

- 21 A. Making, or assisting others in making, directly or by implication, any false or misleading
22 statement or representation of material fact, including, but not limited to, any false or
23 misleading statement that the defendants or any other individual or entity will provide a
24 refund to consumers who request one within a specified time period;

- 1 **B.** Failing to disclose or to disclose adequately to consumers material aspects of any refund
2 policy; and
- 3 **C.** Requiring consumers to sign a non-disparagement agreement as a condition of receiving
4 a refund.

5 **III.**
6 **PROHIBITIONS AGAINST DECEPTIVE AND ABUSIVE TELEMARKETING**
7 **PRACTICES**

8 **IT IS FURTHER ORDERED** that, in connection with telemarketing, defendants, and
9 their representatives, whether acting directly or through any entity, corporation, subsidiary,
10 division, director, manager, member, affiliate, independent contractor, accountant, financial
11 advisor, or other device, **are hereby permanently restrained and enjoined from engaging in**
12 or causing or assisting other persons to engage in, violations of any provision of the TSR,
13 including, but not limited to, the following:

- 14 **A.** Misrepresenting, directly or by implication, in the sale of goods or services, any material
15 aspect of the performance, efficacy, nature or essential characteristics of their products
16 and services, in violation of Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. §
17 310.3(a)(2)(iii);
- 18 **B.** Failing to disclose or to disclose adequately in a clear and conspicuous manner, all
19 material terms and conditions of any refund policy, in violation of Section 310.3(a)(1)(iii)
20 of the TSR, 16 C.F.R. § 310.3(a)(1)(iii), including that consumers must request a refund
21 within a specified time period after purchase;
- 22 **C.** Misrepresenting, directly or by implication, material aspects of the nature and terms of
23 any refund policy in violation of Section 310.3(a)(2)(iv) of the TSR, 16 C.F.R. §
24 310.3(a)(2)(iv), including that they will provide refunds to consumers who request one
25 within a specified time period;

- E. Calling numbers on the DNC Registry without paying the annual fee necessary to access the list of numbers on the DNC Registry in violation of Section 310.8 of the TSR, 16 C.F.R. § 310.8.**

IT IS FURTHER ORDERED that Mr. Harrison shall, in connection with this action or any subsequent investigations related to, or associated with, the transactions or the occurrences that are the subject of the complaint, cooperate in good faith with the FTC and any other governmental agency or entity, and appear at such places and times as the FTC or any other governmental agency or entity shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the FTC or any other governmental agency or entity. If requested in writing by the FTC or any other governmental agency or entity, Mr. Harrison shall appear and

1 provide truthful testimony in any trial, deposition, or other proceeding related to, or associated
2 with, the transactions or the occurrences that are the subject of the complaint, without the service
3 of a subpoena upon him.

4
5 **V.
MONETARY RELIEF**

6 **IT IS FURTHER ORDERED** that judgment is hereby entered in favor of the
7 commission and against Mr. Harrison, jointly and severally with all other defendants found liable
8 in this case, in the amount of one hundred thirty million dollars (\$130,000,000), as equitable
9 monetary relief for consumer injury; provided, however, that subject to the provisions of Section
10 VI, this judgment shall be suspended as to Mr. Harrison upon Mr. Harrison's completion of the
11 requirements stated in Subsections A, B, C and E of this section.

12 **A.** Effective upon the entry of this order, Mr. Harrison shall surrender to the FTC all
13 control, title, dominion, and interest in the following assets:

- 14 1. All funds held in the Credit Union 1 account ending in 8822, in the name of
15 John and/or Melyna Harrison, individually or jointly;
- 16 2. All funds held in the PayPal accounts ending in 700361, 25279 and 69188, in
17 the name of John or Melyna Harrison;
- 18 3. The 2007 Infiniti G35 [VIN JNKBV61E27M720506] registered to Mr.
19 Harrison identified in Item 21 of the individual financial statement signed by
20 Mr. Harrison, dated March 10, 2011;
- 21 4. The 2007 Land Rover Range Rover Sport [VIN SALSH23417A990780]
22 registered to Mr. Harrison identified in Item 21 of the individual financial
23 statement signed by Mr. Harrison, dated March 10, 2011; and
24
25

1 5. The 2008 Chevrolet Van [VIN 1GAHG39K881116372] registered to Mr.
2 Harrison identified in Item 21 of the individual financial statement signed by
3 Mr. Harrison, dated March 10, 2011.

4 **B.** Effective upon the entry of this order, Virtucon shall surrender to the FTC all control,
5 title, dominion, and interest in all funds held in the Credit Union 1 account ending in
6 2308, in the name of Virtucon, LLC.

7 **C.** To effect the surrender of the funds identified in subsections V.A.1-2 and V.B., the
8 court directs that the entities holding the funds or their successors shall, within ten
9 (10) business days of the date of entry of this order, remit the funds to the
10 commission by certified check(s) or other guaranteed funds payable to the FTC,
11 Financial Management Office, or by wire transfer in accordance with directions
12 provided by counsel for the commission. To the extent any identified nonparty
13 cannot comply with this subsection without the assistance of Mr. Harrison, such party
14 must, within three (3) business days of receiving this order, notify Mr. Harrison and
15 counsel for the commission of its inability to comply. Such notification shall specify
16 the actions by Mr. Harrison that are necessary to comply with this order. Mr.
17 Harrison shall immediately complete any action necessary to facilitate the identified
18 nonparty's ability to timely comply with this subsection, and the failure of Mr.
19 Harrison to complete such action within ten (10) days shall be deemed a violation of
20 the order and interest at the rate prescribed in 28 U.S.C. § 1961(a) shall immediately
21 begin to accrue.

22 **D.** In the event of default on any obligation to make payment under this order, interest,
23 computed pursuant to 28 U.S.C. § 1961(a) shall accrue from the date of default to the
24 date of payment. In the event such default continues for ten (10) calendar days
25 beyond the date the payment is due, the entire amount of the judgment, less any

1 amounts previously paid pursuant to this order, together with interest, shall
2 immediately become due and payable. Mr. Harrison shall be liable for all payments
3 required by this order and any interest on such payments.

4 **E.** Immediately upon entry of this order, Mr. Harrison shall deliver possession to the
5 receiver of the assets identified in subsections V.A.3-5 (the "Harrison/Virtucon
6 assets"). The receiver is hereby directed to market and sell the Harrison/Virtucon
7 assets. Mr. Harrison shall take all steps necessary to assist the receiver in the sale of
8 the Harrison/Virtucon assets and shall not add any encumbrances on the
9 Harrison/Virtucon assets. Any transfer fees, taxes, or other payments mandated from
10 the transferor under law shall be paid from the proceeds of each sale at the time such
11 asset is sold.

12 **F.** All funds paid pursuant to this order shall be deposited into a fund administered by
13 the commission or its agents to be used for equitable relief, including, but not limited
14 to, redress to consumers, and any attendant expenses for the administration of such
15 equitable relief. In the event that direct redress to consumers is wholly or partially
16 impracticable or funds remain after the redress is completed, the commission may
17 apply any remaining funds for such other equitable relief (including consumer
18 information remedies) as it determines to be reasonably related to defendants'
19 practices alleged in the complaint. Any funds not used for such equitable relief shall
20 be deposited to the United States Treasury as disgorgement. Mr. Harrison shall have
21 no right to challenge the commission's choice of remedies or the manner of
22 distribution under this subsection.

23 **G.** No portion of any payment under the judgment herein shall be deemed a payment of
24 any fine, penalty, or punitive assessment.
25

- 1 H. Mr. Harrison relinquishes all dominion, control, and title to the funds paid to the
2 fullest extent permitted by law. Mr. Harrison shall make no claim to or demand for
3 return of the funds, directly or indirectly, through counsel or otherwise.
- 4 I. Mr. Harrison agrees that the facts as alleged in the complaint filed in this action shall
5 be taken as true without further proof in any bankruptcy case or subsequent civil
6 litigation pursued by the commission to enforce its rights to any payment or money
7 judgment pursuant to this order, including, but not limited to, a nondischargeability
8 complaint in any bankruptcy case. Mr. Harrison further stipulates and agrees that the
9 facts alleged in the complaint establish all elements necessary to sustain an action
10 pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A),
11 and this order shall have collateral estoppel effect for such purposes.
- 12 J. In accordance with 31 U.S.C. § 7701, Mr. Harrison is hereby required, unless he has
13 done so already, to furnish to the commission his social security number, which shall
14 be used for the purposes of collecting and reporting on any delinquent amount arising
15 out of Mr. Harrison's relationship with the government.
- 16 K. Mr. Harrison agrees that he will not, whether acting directly or through any
17 corporation, partnership, subsidiary, division, agent, or other device, submit to any
18 federal or state tax authority any return, amended return, or other official document
19 that takes a deduction for, or seeks a tax refund or other favorable treatment for, any
20 payment made by him pursuant to this order.

21 **VI.**
22 **RIGHT TO REOPEN**

23 **IT IS FURTHER ORDERED** that:

- 24 A. The commission's agreement to and the court's approval of this order are expressly
25 premised upon the truthfulness, accuracy, and completeness of Mr. Harrison's

1 financial statement dated March 10, 2011, and his responses to supplemental financial
2 questions, dated June 30, 2011 and October 27, 2011, (the "financial statements"), all
3 of which Mr. Harrison asserts are truthful, accurate, and complete. Mr. Harrison and
4 the commission stipulate that Mr. Harrison's financial statements provide the basis
5 for the monetary judgment in Section V of this order and that the commission has
6 relied on the truthfulness, accuracy, and completeness of Mr. Harrison's financial
7 statements.

- 8 **B.** If, upon motion by the commission, this court finds that Mr. Harrison has: (1)
9 materially misstated in his financial statements, the value of any asset; (2) made any
10 material misrepresentation or omitted material information concerning his financial
11 condition by failing to disclose any asset that should have been disclosed in his
12 financial statements; or (3) made any other material misstatement or omission in his
13 financial statements, the court shall terminate the suspension of the monetary
14 judgment entered in Section V. The court, without further adjudication, shall enter a
15 modified judgment holding Mr. Harrison liable to the commission in the amount of
16 one hundred thirty million dollars (\$130,000,000) for equitable monetary relief, less
17 any amounts turned over to the FTC pursuant to Section V of this order. Upon such
18 reinstatement of the monetary judgment, the court shall make an express
19 determination that the judgment shall become immediately due and payable by Mr.
20 Harrison and the commission shall be entitled to interest computed from the day of
21 entry of this order at the rate prescribed under 28 U.S.C. § 1961, as amended, on the
22 unpaid balance. The commission shall be permitted to execute on the judgment
23 immediately after the suspension is lifted and engage in discovery in aid of execution.
- 24 **C.** Mr. Harrison acknowledges and agrees that: (1) this monetary judgment is equitable
25 monetary relief, solely remedial in nature, and not a fine, penalty, punitive

1 assessment, or forfeiture; (2) any proceedings instituted under this section would be
2 in addition to, and not in lieu of, any other civil or criminal remedies as may be
3 provided by law, including any other proceedings that the FTC may initiate to enforce
4 this order; and (3) all money paid to satisfy the monetary judgment is irrevocably paid
5 for purposes of settlement between the parties.

6 **D.** Should this order be modified pursuant to this section, this order, in all other respects,
7 shall remain in full force and effect unless otherwise ordered by the court.

8 **VII.**

9 **PROHIBITION ON RELEASE OF CUSTOMER INFORMATION OR
10 CUSTOMER LISTS**

11 **IT IS FURTHER ORDERED** that the defendants and their representatives, whether
12 acting directly or through any corporation, partnership, subsidiary, division, agent, or other
13 device, are permanently restrained and enjoined from:

14 **A.** Disclosing, using, or benefitting from customer information, including the name,
15 address, telephone number, e-mail address, social security number, other identifying
16 information, or any data that enables access to a customer's account (including a
17 credit card, bank account, or other financial account), of any person that the
18 defendants obtained prior to entry of this order in connection with the advertisement,
19 marketing, promotion, offering for sale, or sale of any business coaching program;
20 and

21 **B.** Failing to dispose of such customer information in all forms in their possession,
22 custody, or control within thirty (30) days after entry of this order. Disposal shall be
23 by means that protect against unauthorized access to the customer information, such
24 as by burning, pulverizing, or shredding any papers, and by erasing or destroying any
25 electronic media, to ensure that the customer information cannot practicably be read
or reconstructed.

1 *Provided, however*, that customer information need not be disposed of if currently under the
2 control of the commission or the court-appointed receiver. Further, such information may be
3 disclosed, to the extent requested by a government agency or required by a law, regulation, or
4 court order.

5
6 **VIII.**
LIFTING OF ASSET FREEZE

7 **IT IS FURTHER ORDERED** that the freeze of Mr. Harrison's and Virtucon, LLC's
8 assets set forth in the preliminary injunction, entered by this court on March 25, 2011, shall be
9 lifted to the extent necessary to turn over the Harrison/Virtucon assets as required by Section V
10 of this order, and, shall be lifted permanently immediately upon completion of the turn-over.

11
12 **IX.**
APPOINTMENT OF RECEIVER TO LIQUIDATE ASSETS

13 **IT IS FURTHER ORDERED** that Robb Evans & Associates, LLC, the receiver
14 appointed by prior orders of this court, is hereby appointed receiver for the purpose of taking the
15 necessary steps to liquidate the Harrison/Virtucon assets, and pay any net proceeds to the FTC to
16 satisfy the monetary judgment in this order. In carrying out these duties, the receiver shall be the
17 agent of this court, shall be accountable directly to this court, and is authorized and directed to:

- 18 **A.** Perform all acts necessary to protect, conserve, preserve, and prevent waste or
19 dissipation of the Harrison/Virtucon assets until their sale;
- 20 **B.** Sell the Harrison/Virtucon assets without further order of the court;
- 21 **C.** Enter into agreements in connection with the reasonable and necessary performance
22 of the receiver's duty to sell the Harrison/Virtucon assets, including, but not limited
23 to the retention of assistants, agents, or other professionals to assist in the sale of
24 these assets; and
25

IT IS FURTHER ORDERED that the receiver and all personnel hired by the receiver, including counsel to the receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this order from the assets now held by, in the possession of, or which may be received by, the corporate defendants. The receiver shall apply to the court for approval of specific amounts of compensation and expenses, and must not increase the hourly rates used as the bases for such fee applications without prior approval of the court.

IT IS FURTHER ORDERED that Mr. Harrison obtain acknowledgments of receipt of this order:

- 16

1 C. From each individual or entity to which Mr. Harrison delivered a copy of this order,
2 Mr. Harrison must obtain, within thirty (30) days, a signed and dated
3 acknowledgement of receipt of this order.

4 **XII.**
5 **COMPLIANCE REPORTING**

6 **IT IS FURTHER ORDERED** that Mr. Harrison make timely submissions to the
7 commission:

8 A. One (1) year after entry of this order, Mr. Harrison must submit a compliance report,
9 sworn under penalty of perjury. Mr. Harrison must: (a) identify all telephone
10 numbers and all e-mail, Internet, physical, and postal addresses, including all
11 residences; (b) designate at least one telephone number and an e-mail, physical, and
12 postal address as points of contact, which representatives of the commission may use
13 to communicate with Mr. Harrison; (c) identify all of his businesses by all of their
14 names, telephone numbers, and physical, postal, e-mail, and Internet addresses; (d)
15 describe the activities of each business, including the products and services offered,
16 the means of advertising, marketing, and sales, and the involvement of any other
17 defendant named in the complaint; (e) identify all titles and roles in all business
18 activities, including any business for which he performs services whether as an
19 employee or otherwise and any entity in which he has any ownership interest; (f)
20 describe in detail his involvement in each such business, including title, role, —
21 responsibilities, participation, authority, control, and any ownership; (g) describe in
22 detail whether and how he is in compliance with each section of this order; and (h)
23 provide a copy of each order acknowledgment obtained pursuant to this order, unless
24 previously submitted to the commission;
25

1 **B.** For ten (10) years following entry of this order, Mr. Harrison must submit a
2 compliance notice, sworn under penalty of perjury, within fourteen (14) days of any
3 change in the following:

4 1. the structure of any entity that he has any ownership interest in or directly or
5 indirectly controls that may affect compliance obligations arising under this
6 order, including: creation, merger, sale, or dissolution of the entity or any
7 subsidiary, parent, or affiliate that engages in any acts or practices subject to
8 this order.

9 2. Additionally, Mr. Harrison must report any change in: (a) name, including
10 aliases or fictitious name, or residence address; or (b) title or role in any
11 business activity, including any business for which he performs services
12 whether as an employee or otherwise and any entity in which he has any
13 ownership interest, and identify its name, physical address, and Internet
14 address, if any.

15 **C.** Mr. Harrison must submit to the commission notice of the filing of any bankruptcy
16 petition, insolvency proceeding, or any similar proceeding by or against him within
17 fourteen (14) days of its filing.

18 **D.** Any submission to the commission required by this order to be sworn under penalty
19 of perjury must be true and accurate and comply with 18 U.S.C. § 1746, such as by
20 concluding: "I declare under penalty of perjury under the laws of the United States of
21 America that the foregoing is true and correct. Executed on: ____" and supplying
22 the date, signatory's full name, title (if applicable), and signature.

23 **E.** Unless otherwise directed by a commission representative in writing, all submissions
24 to the commission pursuant to this order must be e-mailed to DEbrief@ftc.gov or sent
25 by overnight courier (not the U.S. Postal Service) to: Associate Director for

1 Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600
2 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin:
3 FTC v. John H. Harrison (X110017).

4
5 **XIII.**
RECORDKEEPING

6 **IT IS FURTHER ORDERED** that Mr. Harrison must create certain records for ten (10)
7 years after entry of the order, and retain each such record for ten (10) years. Specifically, Mr.
8 Harrison for any business in which he, individually or collectively with any other defendant
9 named in the complaint, is a majority owner or controls either directly or through an agent or
10 proxy, must maintain the following records:

- 11 **A.** Accounting records showing the revenues from all goods or services sold, all costs
12 incurred in generating those revenues, and the resulting net profit or loss;
- 13 **B.** Personnel records showing, for each person providing services, whether as an
14 employee or otherwise, that person's: name, addresses, and telephone numbers; job
15 title or position; dates of service; and, if applicable, the reason for termination;
- 16 **C.** Customer files showing the names, addresses, telephone numbers, dollar amounts
17 paid, and the quantity and description of goods or services purchased;
- 18 **D.** Complaints and refund requests, whether received directly or indirectly, such as
19 through a third party, and any response;
- 20 **E.** All records necessary to demonstrate full compliance with each provision of this
21 order, including all submissions to the commission; and
- 22 **F.** A copy of each advertisement or other marketing material.
- 23
24
25

**XIV.
COMPLIANCE MONITORING**

IT IS FURTHER ORDERED that, for the purpose of monitoring Mr. Harrison's compliance with this order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this order:

- A.** Within fourteen (14) days of receipt of a written request from a representative of the commission, Mr. Harrison must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69, provided that Mr. Harrison, after attempting to resolve a dispute without court action and for good cause shown, may file a motion with this court seeking an order including one or more of the protections set forth in Rule 26(c).
- B.** For matters concerning this order, the commission is authorized to communicate directly with Mr. Harrison. Mr. Harrison must permit representatives of the commission to interview any employee or other person affiliated with any defendant who has agreed to such an interview. The person interviewed may have counsel present.
- C.** The commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Mr. Harrison or any individual or entity affiliated with him, without the necessity of identification or prior notice. Nothing in this order limits the commission's lawful

1 use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C.
2 §§ 49, 57b-1.

3 **XV.**

4 **RETENTION OF JURISDICTION**

5 **IT IS FURTHER ORDERED** that this court retains jurisdiction of this matter for
6 purposes of construction, modification, and enforcement of this order.

7 **IT IS SO ORDERED:**

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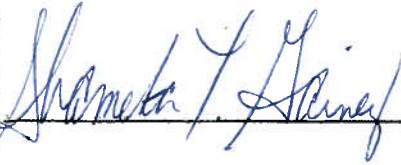
10 The Honorable James C. Mahan

11 UNITED STATES DISTRICT JUDGE

12 DATED: December 20, 2012
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1 The parties consent to the terms and conditions set forth above and consent to entry of this
2 stipulated final judgment and order for permanent injunction and monetary relief at the court's
3 convenience and without further notice to the parties.

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5 **FOR THE PLAINTIFF:**

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9 Dated: 12/18/12

10
11 SHAMEKA L. GAINNEY
12 sgainey@ftc.gov
13 ROSS A. FELDMANN
14 rfeldmann@ftc.gov
15 Federal Trade commission
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23 Assistant United States Attorney
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702-388-6787 (Fax)

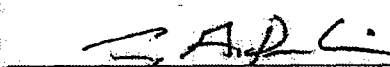
Attorneys for Plaintiff

FEDERAL TRADE COMMISSION

1 **FOR THE DEFENDANT:**

2
3 
4 John H. Harrison

Dated: 7/20/2012

5
6
7 

Dated: 7/25/2012

8 JEFFREY WILLIS, ESQ.
9 CHAD R. FEARS, ESQ.
10 CASEY G. PERKINS, ESQ.
11 SNELL & WILMER L.L.P.
3883 HOWARD HUGHES PARKWAY, SUITE 1100
LAS VEGAS, NEVADA 89169

12 Attorneys for Defendants

Certificate of Service

I hereby certify that on December 18, 2012, I electronically filed the foregoing document with the clerk of the court using CM/ECF, which will send a notice of electronic filing to all counsel of record.

/s/ Shameka L. Gainey
Shameka L. Gainey